REMARKS

Claims 2-11 and 13-22 are pending. Claims 1 and 12 have been cancelled without prejudice. Claims 2-8 and 14-19 have been amended. Claims 5-7 and 16-18 are the independent claims.

Claims 1, 3, 5, and 7 were rejected under 35 U.S.C. 102(b) over U.S. Patent No. 5,826,198 (Bergins). Claims 2 and 8-11 were rejected under 35 U.S.C. 103(a) over Bergins further in view of U.S. Patent No. 5,236,694 (Toyoshima). Claims 4, 12 and 14-18 were rejected under 35 U.S.C. 103(a) over Bergins further in view of U.S. Patent No. 6,166,729 (Acosta). Claims 13 and 19-22 were rejected under 35 U.S.C. 103(a) over Bergins and Acosta further in view of Toyoshima. Claims 1, 3, 5-7 were rejected under 35 U.S.C. 102(b) over U.S. Patent No. 5,608,324 (Yoshida). Claims 9-11 were rejected under 35 U.S.C. 103(a) over Yoshida in view of Toyoshima. Claims 4, 12, 14-19 were rejected under U.S.C. 103(a) over Yoshida in view of Acosta. Claims 20-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida and Acosta in view of Toyoshima. Applicant submits that the independent claims are patentable for at least the following reasons.

Claim 5, 6 and 7each are directed to a communication device, in which data is transmitted and received via a communication section and a line. The device includes: decision means for deciding whether or not to transmit and receive data based on predetermined information corresponding to the state of the line or the internal state of the device or whether or not to interrupt communications if the device is currently in a transmission/reception state; and a controller for controlling the communication section according decision results from the decision means. The predetermined information contains prediction results based on a prediction of a data amount to be transmitted or received in current communication.

Among the features not taught or suggested in Birgins are the deciding based on predetermined information that includes predictions results based on a prediction of a data amount to be transmitted or received in current communication. The Office Action took the position that Birgins, at column 6, line 63 through column 7, line 23, and column 19, lines 60-62 somehow shows that the predetermined information upon which the decision is made includes prediction results based on a prediction of a data amount to be transmitted or received in current communications. However, these sections confirm that it is signal strength that determines whether or not to transmit in Birgins. Further, there is no teaching of any prediction results based on the amount of data to be transmitted. Birgin mentions short data packets in the context of stating that such packets are of a type that may be reliably transmitted within the time period established by the auto disconnect time. However, there is no teaching that any *prediction* is made regarding the amount of data to transmitted or received. For at least this reason, claims 5, 6 and 7 are each believed patentable over the Birgins.

Yoshida calculates an available capacity of file data that may be transmitted in a remaining time left of power supply from a battery, depending on the type of battery. However, Yoshida contains no teaching that the predetermined information for determining whether or not to transmit or receive data includes information representing a reception level (as in claim 5), information representing an error rate (as in claim 6), or information representing a response timing from a connected destination (as in claim 7). The portions of Yoshida cited in the Office Action for teaching these features do not teach or suggest any such thing.

As to using information representing a reception level, the Office Action cited column 1, line 54 through column 2, line 19 and column 3, lines 9-32. However, these sections make no mention of using predetermined information representing a reception level as claimed. Thus, claim 5 is clearly distinguished over Yoshida for at least this reason.

As to using information representing an error rate, the Office Action cited column 1, lines 40 through 45. However, this section only says that in the past it was difficult to estimate remaining battery life, and that such estimation was subject to errors. This is completely unrelated to the claimed feature except that it also uses the word "error." For at least this reason, claim 6 is clearly distinguished over Yoshida.

As to using information representing a response timing from a connected destination, the Office Action cited column7, lines 16 through 44. However, this section contains no teaching whatsoever regarding a response timing, still less the use of this information as recited in the claim. For at least this reason, claim 7 is clearly distinguished over Yoshida.

Claims 16, 17 and 18 are method claims corresponding to claims 5, 6 and 7, respectively, and are believed patentable for substantially the same reasons.

The other cited references do not remedy the above-mentioned deficiencies of either Birgins or Yoshida as a respective reference against the independent claims.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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